

1 **R277. Education, Administration.**

2 **R277-404. Requirements for Assessments of Student Achievement.**

3 **R277-404-1. Authority and Purpose.**

4 (1) This rule is authorized by:

5 (a) Utah Constitution Article X, Section 3, which vests general control and
6 supervision over public education in the Board;

7 (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute
8 the Board's duties and responsibilities under the Utah Constitution and state law;

9 ~~(b)c~~ Section 53E-4-302, which directs the Board to adopt rules for the
10 administration of statewide assessments; and

11 ~~(c)d~~ Subsection 53G-6-803(9)(b), which requires the Board to adopt rules to
12 establish a statewide procedure for exempting a student from taking certain
13 assessments; ~~and~~

14 ~~— (d) Subsection 53E-3-401(4), which allows the Board to make rules to execute~~
15 ~~the Board's duties and responsibilities under the Utah Constitution and state law.]~~

16 (2) The purpose of this rule is to:

17 (a) provide consistent definitions; and

18 (b) assign responsibilities and procedures for the administration of statewide
19 assessments, as required by state and federal law.

20

21 **R277-404-2. Definitions.**

22 (1) "Benchmark reading assessment" means the Board approved literacy
23 assessment that is administered to a student in grade 1, grade 2, and grade 3 at the
24 beginning, middle, and end of year.

25 (2) "College readiness assessment" means the:

26 (a) same as that term is ~~defined~~ described in Section 53E-4-305; and

27 (b) American College Testing exam, or ACT.

28 (3) "English Learner" or "EL student" means a student who is learning in English
29 as a second language.

30 (4) "English language proficiency assessment" means the World-class
31 Instructional Design and Assessment (WIDA) Assessing Comprehension in English
32 State-to-State (ACCESS), which is designed to measure the acquisition of the academic
33 English language for an English Learner student.

34 (5) "Family Educational Rights and Privacy Act of 1974" or "FERPA," 20 U.S.C.
35 1232g, means a federal law designed to protect the privacy of students' education
36 records.

37 (6) "High school assessment":

38 (a) means the same as that term is ~~defined~~described in Section 53E-4-304;

39 (b) means the "Utah Aspire Plus"; and

40 (c) includes the Utah Aspire Plus assessment of proficiency in:

41 (i) English;

42 (ii) math;

43 (iii) science; and

44 (iv) reading.

45 (7) "National Assessment of Education Progress" or "NAEP" means the national
46 achievement assessment administered by the United States Department of Education to
47 measure and track student academic progress.

48 (8) "State required assessment" means an assessment described in Subsection
49 53G-6-803(9)(a).

50 (9) "Standards Assessment":

51 (a) means the same as that term is ~~defined~~described in Subsection
52 53E-4-303(2)(a); and

53 (b) means the "Readiness Improvement Success Empowerment" or "RISE";

54 (c) for each school year, includes one writing prompt from the writing portion of
55 the RISE English language arts assessment for grades 5 and 8.

56 (10) "Statewide assessment" means the:

57 (a) the same as that term is defined in Subsection 53E-4-301(2);~~standards~~
58 ~~assessment;~~

59 ~~_____ (b) high school assessment;~~

60 ~~_____ (c) college readiness assessment;]~~

61 ([~~d~~]b) Utah alternative assessment; and

62 [~~e~~ ~~benchmark reading assessment; and~~]

63 ([~~f~~]c) English language proficiency assessment.

64 (11) "Section 504 accommodation plan" means a plan:

65 (a) required by Section 504 of the Rehabilitation Act of 1973; and

66 (b) designed to accommodate an individual who has been determined, as a result
67 of an evaluation, to have a physical or mental impairment that substantially limits one or
68 more major life activities.

69 (12)(a) "Utah alternate assessment" means an assessment instrument:

70 (i) for a student in special education with a disability so severe the student is not
71 able to participate in a statewide assessment even with an assessment accommodation
72 or modification; and

73 (ii) that measures progress on the Utah core instructional goals and objectives in
74 the student's IEP.

75 (b) "Utah alternate assessment" means:

76 (i) for science, the Utah Alternate Assessment (UAA); and

77 (ii) for English language arts and mathematics, the Dynamic Learning Maps
78 (DLM).

79 (13) "Utah eTranscript and Record Exchange" or "UTREx" means a system that
80 allows:

81 (a) an LEA and the Superintendent to electronically exchange an individual
82 detailed student record; and

83 (b) electronic transcripts to be sent to any post-secondary institution, private or
84 public, in-state or out-of-state, that participates in the e-transcript service.

85

86 **R277-404-3. Incorporation of Standard Test Administration and Testing Ethics**
87 **Policy by Reference.**

88 (1) This rule incorporates by reference the Standard Test Administration and
89 Testing Ethics Policy, June 6, 2019~~August 2, 2018~~, which establishes:

90 (a) the purpose of testing;

91 (b) the statewide assessments to which the policy applies;

92 (c) teaching practices before assessment occurs;

93 (d) required procedures for after an assessment is complete and for providing
94 assessment results;

95 (e) unethical practices;

96 (f) accountability for ethical test administration;

97 (g) procedures related to testing ethics violations; and

98 (h) additional resources.

99 (2) A copy of the Standard Test Administration and Testing Ethics Policy is
100 located at:

101 (a) <https://www.schools.utah.gov/assessment?mid=1104&tid=5>; and

102 (b) the Utah State Board of Education - 250 East 500 South, Salt Lake City, Utah
103 84111.

104

105 **R277-404-4. Superintendent Responsibilities.**

106 (1) The Superintendent shall facilitate:

107 (a) administration of statewide assessments; and

108 (b) participation in NAEP, in accordance with Subsection 53E-4-302(1)(b).

109 (2) The Superintendent shall provide guidelines, timelines, procedures, and
110 assessment ethics training and requirements for all statewide assessments.

111 (3) The Superintendent shall designate a testing schedule for each statewide
112 assessment and publish the testing window dates on the Board's website before the
113 beginning of the school year.

114

115 **R277-404-5. LEA Responsibilities - Time Periods for Assessment Administration.**

116 (1)(a) Except as provided in Section (1)(b)~~[(1)(c),]~~ and R277-404-7 an LEA shall

117 administer statewide assessments to all students enrolled in the grade level or course to
118 which the assessment applies.

119 (b) A student's IEP team, English Learner team, or Section 504 accommodation
120 plan team shall determine an individual student's participation in statewide assessments
121 consistent with the Utah Participation and Accommodations Policy.

122 (2) An LEA shall develop a plan to administer statewide assessments.

123 (3) The plan shall include:

124 (a) the dates that the LEA will administer each statewide assessment;

125 (b) professional development for an educator to fully implement the assessment
126 system;

127 (c) training for an educator and an appropriate paraprofessional in the
128 requirements of assessment administration ethics; and

129 (d) training for an educator and an appropriate paraprofessional to use statewide
130 assessment results effectively to inform instruction.

131 (4) An LEA shall submit the plan to the Superintendent by September 15
132 annually.

133 (5) At least once each school year, an LEA shall provide professional
134 development for all educators, administrators, and assessment administrators concerning
135 guidelines and procedures for statewide assessment administration, including educator
136 responsibility for assessment security and proper professional practices.

137 (6) LEA assessment staff shall use the Standard Test Administration and Testing
138 Ethics Policy in providing training for all assessment administrators and proctors.

139 (7) An LEA may not release state assessment data publicly until authorized to do
140 so by the Superintendent.

141 (8) An LEA educator or trained employee shall administer statewide assessments
142 consistent with the testing schedule published on the Board's website.

143 (9) An LEA educator or trained employee shall complete all required assessment
144 procedures prior to the end of the assessment window defined by the Superintendent.

145 (10)(a) If an LEA requires an alternative schedule with assessment dates outside

146 of the Superintendent's published schedule, the LEA shall submit the alternative testing
147 plan to the Superintendent by September 15 annually.

148 (b) The alternative testing plan shall set dates for assessment administration for
149 courses taught face-to-face or online.

150

151 **R277-404-6. School Responsibilities.**

152 ~~[(1)(a) An LEA, school, or educator may not use a student's score on a state
153 required assessment to determine:~~

154 ~~—— (i) the student's academic grade, or a portion of the student's academic grade, for
155 the appropriate course; or~~

156 ~~—— (ii) whether the student may advance to the next grade level.~~

157 ~~—— (b)(i) An LEA may consider, as one of multiple lines of evidence, a student's score
158 on a state required assessment to determine whether a student may enroll in an honors,
159 advanced placement, or International Baccalaureate course.]~~

160 ~~[(ii)(1) An LEA may not prohibit a student from enrolling in an honors, advanced
161 placement, or International Baccalaureate course:~~

162 ~~[(A)](a) based on a student's score on a state required assessment; or~~

163 ~~[(B)](b) because the student was exempted from taking a state required
164 assessment.~~

165 ~~[(c) In accordance with Subsection 53G-6-803(1), an LEA shall reasonably
166 accommodate a parent's or guardian's request to allow a student's demonstration of
167 proficiency on a state required assessment to fulfill a requirement in a course.]~~

168 (2) An LEA and school shall require an educator, assessment administrator, and
169 proctor to individually sign a document provided by the Superintendent acknowledging or
170 assuring that the educator administers statewide assessments consistent with ethics and
171 protocol requirements.

172 (3) An educator and assessment administrator shall conduct assessment
173 preparation, supervise assessment administration, and certify assessment results before
174 providing results to the Superintendent.

175 (4) An educator, assessment administrator, and proctor shall securely handle and
176 return all protected assessment materials, where instructed, in strict accordance with the
177 procedures and directions specified in assessment administration manuals, LEA rules
178 and policies, and the Standard Test Administration and Testing Ethics Policy.

179

180 **R277-404-7. Student and Parent Participation in Student Assessments in Public**
181 **Schools; Parental Exclusion from Testing and Safe Harbor Provisions.**

182 (1) As used in this section, "penalize" means to put in an unfavorable position or
183 at an unfair disadvantage.

184 (2)(a) A [P]parent[s] [are]is primarily responsible for ~~[their children's]~~a child's
185 education and has~~[ve]~~ the constitutional right to determine which aspects of public
186 education the child participates in, including assessment systems~~[, in which their children~~
187 ~~participate]~~.

188 (b) Parents may further exercise their inherent rights to exempt their children from
189 a state required assessment without further consequence by an LEA.

190 (3)(a) A parent may exercise the right to exempt their child from a state required
191 assessment.

192 (b) Except as provided in Subsection (3)(c), an LEA may not penalize a student
193 who is exempted from a state required assessment under this section.

194 (c) If a parent exempts the parent's child from the basic civics test required in
195 Sections 53E-4-205 and R277-700-8, the parent's child is not exempt from the graduation
196 requirement in Subsection 53E-4-205(2), and may not graduate without successfully
197 completing the requirements of Sections 53E-4-205 and R277-700-8.

198 (4)(a) To exercise the right to exempt a child from a state required assessment
199 under this provision and ensure the protections of this provision, a parent shall:

200 (i) fill out:

201 (A) the Parental Exclusion from State Assessment Form provided on the Board's
202 website; or

203 (B) an LEA specific form as described in Subsection (4)(b); and

- 204 (ii) submit the form:
- 205 (A) to the principal or LEA either by email, mail, or in person; and
- 206 (B) on an annual basis; and
- 207 (C) except as provided in Subsection (4)(b), at least one day prior to the
- 208 beginning of the assessment.
- 209 (b) An LEA may allow a parent to exempt a student from taking a state required
- 210 assessment less than one day prior to the beginning of the assessment upon parental
- 211 request.
- 212 (c) An LEA may create an LEA specific form for a parent to fill out as described in
- 213 Subsection (4)(a)(i)(B) if:
- 214 (i) the LEA includes a list of local LEA assessments that a parent may exempt the
- 215 parent's student from as part of the LEA specific form; and
- 216 (ii) the LEA specific form includes all of the information described in the Parental
- 217 Exclusion from State Assessment Form provided on the Board's website as described in
- 218 Subsection (4)(a)(i)(A).
- 219 (5)(a) A teacher, principal, or other LEA administrator may contact a parent to
- 220 verify that the parent submitted a parental exclusion form described in Subsection
- 221 (4)(a)(i).
- 222 (b) An LEA may request, but may not require, a parent to meet with a teacher,
- 223 principal, or other LEA administrator regarding the parent's request to exclude the
- 224 parent's student from taking a state required assessment.
- 225 (6) The administration of any assessment that is not a state required assessment,
- 226 including consequences associated with taking or failing to take the assessment, is
- 227 governed by policy adopted by each LEA.
- 228 (7) An LEA shall provide a student's individual test results and scores to the
- 229 student's parent or guardian upon request and consistent with the protection of student
- 230 privacy.
- 231 (8) An LEA may not provide a nonacademic reward to a student for a student's
- 232 participation in or performance on a state required assessment.

233 (9) An LEA shall allow an educator to provide an academic incentive for a
234 student's performance on a state required assessment in accordance with Subsections
235 53E-4-303(4)(b), 304(3), and 305(4).

236 ~~(9)~~10) An LEA shall ensure that a student who has been exempted from
237 participating in a state required assessment under this section is provided with an
238 alternative learning experience if the student is in attendance during test administration.

239 ~~(1)~~1~~(0)~~) An LEA may allow a student who has been exempted from participating in
240 a state required assessment under this section to be physically present in the room during
241 test administration.

242

243 **R277-404-8. Public Education Employee Compliance with Assessment**
244 **Requirements, Protocols, and Security.**

245 (1) An educator, test administrator or proctor, administrator, or school employee
246 may not:

247 (a) provide a student directly or indirectly with a specific question, answer, or the
248 content of any specific item in a statewide assessment prior to assessment
249 administration;

250 (b) download, copy, print, take a picture of, or make any facsimile of protected
251 assessment material prior to, during, or after assessment administration without express
252 permission of the Superintendent and an LEA administrator;

253 (c) change, alter, or amend any student online or paper response answer or any
254 other statewide material at any time in a way that alters the student's intended response;

255 (d) use any prior form of any statewide assessment, including pilot assessment
256 materials, that the Superintendent has not released in assessment preparation without
257 express permission of the Superintendent and an LEA administrator;

258 (e) violate any specific assessment administrative procedure specified in the
259 assessment administration manual, violate any state or LEA statewide assessment policy
260 or procedure, or violate any procedure specified in the Standard Test Administration and
261 Testing Ethics Policy;

- 262 (f) fail to administer a statewide assessment;
- 263 (g) fail to administer a statewide assessment within the designated assessment
264 window;
- 265 (h) submit falsified data;
- 266 (i) allow a student to copy, reproduce, or photograph an assessment item or
267 component; or
- 268 (j) knowingly do anything that would affect the security, validity, or reliability of
269 statewide assessment scores of any individual student, class, or school.
- 270 (2) A school employee shall promptly report an assessment violation or
271 irregularity to a building administrator, an LEA superintendent or director, or the
272 Superintendent.
- 273 (3) An educator who violates this rule or an assessment protocol is subject to
274 Utah Professional Practices Advisory Commission or Board disciplinary action consistent
275 with R277-215.
- 276 (4) All assessment material, questions, and student responses for required
277 assessments is designated protected, consistent with Subsection 63G-2-305(5), until
278 released by the Superintendent.
- 279 (5)(a) Each LEA shall ensure that all assessment content is secured so that only
280 authorized personnel have access and that assessment materials are returned to
281 Superintendent following testing, as required by the Superintendent.
- 282 (b) An individual educator or school employee may not retain or distribute test
283 materials, in either paper or electronic form, for purposes inconsistent with ethical test
284 administration or beyond the time period allowed for test administration.

285

286 **R277-404-9. Data Exchanges.**

287 (1) The Board's IT Section shall communicate regularly with an LEA regarding the
288 required format for electronic submission of required data.

289 (2) An LEA shall update UTREx data using the processes and according to
290 schedules determined by the Superintendent.

291 (3) An LEA shall ensure that any computer software for maintaining or submitting
292 LEA data is compatible with data reporting requirements established in Rule R277-484.

293 (4) The Superintendent shall provide direction to an LEA detailing the data
294 exchange requirements for each statewide assessment.

295 (5) An LEA shall ensure that all statewide assessment data have been collected
296 and certify that the data are ready for accountability purposes no later than July 12.

297 (6) An LEA shall verify that it has satisfied all the requirements of the
298 Superintendent's directions described in this section.

299 (7) Consistent with Utah law, the Superintendent shall return assessment results
300 from all statewide assessments to the school before the end of the school year.

301

302 **KEY: assessments, student achievements**

303 **Date of Enactment or Last Substantive Amendment: ~~February 22~~, 2019**

304 **Notice of Continuation: November 29, 2016**

305 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-4-302;**
306 **53E-3-401(4); 53G-6-803(9)(b)**